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14 Attorney for Defendants,

15 Marten Transport, LTD and Louis M. Plascencia

16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**

18 STEVEN C. LEE, Individually, and as )

19 Special Administrator for the Estate of )

20 TRINH M. DUONG, ARDI LY, )

Individually, as Special Administrator for )

21 the Estate of DUONG CHI LY, also )

known as KEN LY, AUSTEN ANDREW )

22 LEE, BENJAMIN ALLEN LEE, )

NATHAN LY, a minor, and ERIN LY, a )

23 minor by and through their parent, ARDI )

24 LY )

25 Plaintiffs,

26 v.

27 MARTEN TRANSPORT, LTD., a foreign )

Case No.: 2:16-cv-00282-GMN-CWH

**STIPULATION TO RE-FILE  
MOTIONS FOR SUMMARY  
JUDGMENT REGARDING  
PUNITIVE DAMAGES AND EXTEND  
BRIEFING SCHEDULE  
(Second Request)**

1 corporation, LOUIS M. PLASCENCIA, )  
2 and DOES I through XXX, inclusive )  
3 Defendants. )

4 **STIPULATION TO RE-FILE MOTIONS FOR SUMMARY JUDGMENT**  
5 **REGARDING PUNITIVE DAMAGES AND EXTEND BRIEFING SCHEDULE**  
6 **(Second Request)**

7 IT IS HEREBY STIPULATED AND AGREED, by Plaintiffs and Defendants, through  
8 their undersigned counsel, that the Defendants be granted an extension until April 11, 2017 to  
9 re-file their Motions for Summary Judgment regarding Punitive Damages (Docket Numbers 55  
10 and 57) to comply with this Honorable Court's Local Rules pertaining to page limits, and to  
11 extend the briefing schedule with respect to those motions. In support of their stipulations, the  
12 parties state as follows:  
13

14 **INTRODUCTION**

15 On August 23, 2016, this Honorable Court entered an order granting the parties'  
16 Stipulation to Extend Discovery Deadlines. (Doc. No. 27.) Pursuant to the August 23, 2016  
17 Stipulation and Order, the deadline for filing dispositive motions was extended for the first  
18 time from December 14, 2016, to March 14, 2017.  
19

20 On March 14, 2017, both plaintiffs and defendants filed dispositive motions.  
21 Specifically, the plaintiffs filed a motion for partial summary judgment on the issues of willful  
22 and wanton conduct and the defendants' affirmative defenses and counterclaim for  
23 contribution. (Doc. No. 53.) The defendants filed three motions for summary judgment with  
24 respect to the following: (1) the plaintiffs' intentional infliction of emotional distress claims  
25 (Doc. No. 56); (2) the plaintiffs' claims for punitive damages against Louis Plascencia (Doc.  
26 No. 57); and (3) the plaintiffs' claims for negligent hiring and supervision and punitive  
27  
28

1 damages against Marten Transport, Ltd. (Doc. No. 55.) Pursuant to Local Rule 7-2, the Notice  
2 of Electronic Filing for all of the above-referenced motions provided that response briefs were  
3 due on April 4, 2017.

4  
5 On April 4, 2017, the parties reached a stipulation – as detailed below – to resolve the  
6 plaintiffs’ negligence and punitive damages claims against Marten Transport, Ltd., arising out  
7 of its hiring and supervision of Louis Plascencia, based on Marten Transport, Ltd.’s admission  
8 that Louis Plascencia was acting within the course and scope of his employment at the time of  
9 the subject occurrence. As such, the plaintiffs stipulate to dismiss one count of their complaint  
10 – as detailed below – thereby rendering moot the corresponding aspects of the defendants’  
11 motions for summary judgment. At the same time, the plaintiffs raised an issue with respect to  
12 the defendants’ compliance with this Honorable Court’s local rules regarding page limits,  
13 Local Rule 7-3, which the parties seek to remedy with the following stipulation.  
14

15  
16 STIPULATION

17 The parties stipulate as follows:

- 18 1. The Defendants, Louis Plascencia and Marten Transport, Ltd., admit that Louis  
19 Plascencia was acting within the course and scope of his employment with Marten  
20 Transport, Ltd., at the time of the subject occurrence on February 21, 2015.
- 21 2. The parties stipulate that the foregoing admission of the Defendants does not bear in  
22 any fashion on whether Marten Transport, Ltd., ratified any conduct of Louis  
23 Plascencia with respect to the subject occurrence.
- 24 3. Based on the foregoing stipulation of the Defendants, the Plaintiffs stipulate to dismiss  
25 with prejudice their claims for negligent hiring and supervision against Marten  
26 Transport, Ltd., (Count 15, paragraphs LXX-LXXI, of the Plaintiffs’ Complaint) and  
27 their claims for punitive damages against Marten Transport, Ltd., solely to the extent  
28 that they arise out of any claims for hiring and supervision (Count 16, paragraphs  
LXXII-LXXVIII).

4. The above-stated stipulation does not affect in any way the remaining Counts of the Plaintiffs' Complaint (Counts 1-14, paragraphs I-LXIX), the Plaintiffs' claims for punitive damages against Louis Plascencia (Count 16, paragraphs LXXII-LXXVIII), and the Plaintiffs' claims for punitive damages against Marten Transport, Ltd., to the extent that those punitive damages claims against Marten Transport, Ltd., do not arise out of any claims for hiring and supervision (Count 16, paragraphs LXXII-LXXVIII).
5. Based on the foregoing admission and stipulation to dismiss the Plaintiffs' hiring and supervision claims against Marten Transport, Ltd., the Plaintiffs have no objection to the Defendants' having an extension until April 11, 2017, to re-file their motions for summary judgment regarding punitive damages (Docket Numbers 55 and 57) to comply with the Court's page limits.
6. In the event that the Court grants the Defendants leave until April 11, 2017 to re-file their motions for summary judgment regarding punitive damages to comply with the Court's page limits (Docket Numbers 55 and 57), the parties agree that the Plaintiffs shall have until May 2, 2017 to respond to the Defendants' re-filed motions for summary judgment regarding punitive damages and the Defendants' already filed motion for summary judgment regarding intentional infliction of emotional distress (Docket Number 56), and the Defendants shall have until May 16, 2017 to file replies in support of their motions for summary judgment.
7. In the event that the Court denies the Defendants leave to re-file their motions for summary judgment regarding punitive damages to comply with the Court's page limits, the parties agree that the Plaintiffs shall have an extension of twenty one (21) days from the date of such denial to respond to the Defendants' motions for summary judgment regarding punitive damages (Docket Numbers 55 and 57) and the Defendants' already filed motion for summary judgment regarding intentional infliction of emotional distress (Docket Number 56), and the Defendants shall have fourteen (14) days thereafter to file replies in support of their motions for summary judgment.
8. The Plaintiffs will not assert any objection or argument with respect to the length of the two previously-filed motions for summary judgment regarding punitive damages on behalf of the defendants, specifically Docket Numbers 55 (54 pages) and 57 (34 pages).
9. This stipulation does not affect in any way the briefing schedule on the Plaintiffs' motion for sanctions (Docket Number 54), and the Plaintiffs' motion for partial summary judgment (Docket Number 53), the briefing schedules for which shall stand.

This is the second request to extend the deadline for filing dispositive motions, but the first request for an extension of time on the briefing schedule with respect to dispositive motions.

1 DATED this 4th day of April 2017

DATED this 4th day of April 2017

3 **THE HUNT LAW GROUP, LLC**

4 /s/ Brian H. Myers  
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10 DATED this 4th day of April 2017

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DATED this 4th day of April 2017

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/s/ William E. Weiss  
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20 **ORDER**

21 Upon Stipulation by counsel for the parties, and good cause appearing therefore, IT IS  
22 HEREBY ORDERED that the Stipulation to Re-File Motions for Summary Judgment Regarding  
23 Punitive Damages and Extend Briefing Schedule [63] hereinabove is hereby Granted.

24 DATED this 14 day of April, 2017.

25  
26   
27 UNITED STATES DISTRICT JUDGE  
28